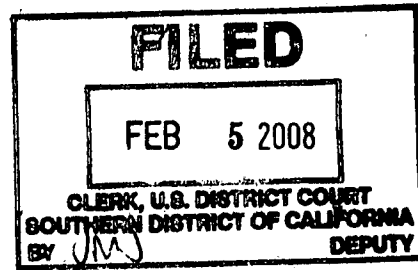


ORIGINAL

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 7 UNITED STATES OF AMERICA



8
 9 UNITED STATES DISTRICT COURT
 10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,)	Magistrate Case No. 07MJ2998
)	Criminal Case No. 08CR0084-H
12 Plaintiff,)	
)	STIPULATION OF FACT AND JOINT
13 v.)	MOTION FOR RELEASE OF
)	MATERIAL WITNESS(ES) AND
14 CARLOS FLORES (1),)	<u>ORDER THEREON</u>
)	
15 Defendant.)	(Pre-Indictment Fast-Track Program)
16)	

17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
 18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and
 19 Carla J. Bressler, Assistant United States Attorney, and defendant CARLOS FLORES, by and
 20 through and with the advice and consent of defense counsel, ~~Leila W. Morgan, Federal Defenders~~
 21 ~~of San Diego, Inc., that:~~ MARTIN MOLINA (CJA Attorney)

22 1. Defendant agrees to execute this stipulation ~~on or before the first preliminary hearing~~
 23 ~~date and~~ to participate in a full and complete inquiry by the Court into whether defendant knowingly,
 24 intelligently and voluntarily entered into it. Defendant agrees further to ~~indictment and~~ plead guilty
 25 to the ~~pre-indictment information~~ ^{Count Two of the Indictment} charging defendant with a non-mandatory minimum count of
 26 Harboring Illegal Aliens and Aiding and Abetting, in violation of Title 8, U.S.C., Secs.
 27 1324(a)(1)(A)(iii) and (v)(II) (Felony)
 28 //

CJB:psd:12/31/07

2. Defendant acknowledges receipt of a plea agreement in this case and agrees to provide the signed, original plea agreement to the Government not later than five business days before the disposition date set by the Court.

3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or before ^{February 8} ~~January 28~~, 2008.

4. The material witness, Ramiro Villanueva-Perez, in this case:

- a. Is an alien with no lawful right to enter or remain in the United States;
- b. Entered or attempted to enter the United States illegally on or about December 27, 2007;
- c. Was found in a house which defendant was the caretaker and that defendant knew or acted in reckless disregard of the fact that he was alien with no lawful right to enter or remain in the United States;
- d. Was paying \$1,800-\$2,000 to others to be brought into the United States illegally and/or transported illegally to his destination therein; and,
- e. May be released and remanded immediately to the Department of Homeland Security for return to his country of origin.

5. After the material witnesses are ordered released by the Court pursuant to this stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

- a. The stipulated facts set forth in paragraph 4 above shall be admitted as substantive evidence;
- b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness(es) provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of (an) unavailable witness(es); and,

//

Stipulation of Fact and Joint Motion for Release of Material Witness(es) And Order Thereon in United States v. Carlos Flores (1)

c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004), "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant waives the right to confront and cross-examine the material witness(es) in this case.

6. By signing this stipulation and joint motion, defendant certifies that defendant has read it (or that it has been read to defendant in defendant's native language). Defendant certifies further that defendant has discussed the terms of this stipulation and joint motion with defense counsel and fully understands its meaning and effect.

Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness(es) to the Department of Homeland Security for return to his country of origin.

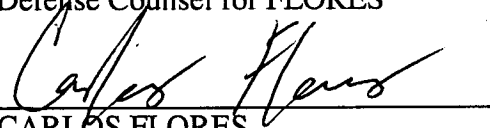
It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT
United States Attorney


CARLA J. BRESSLER
Assistant United States Attorney


LEILA W. MORGAN MARTIN G. MOLINA
Defense Counsel for FLORES


CARLOS FLORES
Defendant

Dated: 1/28/08

Dated: JANUARY 25, 2008

Dated: 1-25-08

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to his country of origin.

SO ORDERED.

Dated: 2/5/08



United States Magistrate Judge